

Role of Ethics in Procurement Process Effectiveness in the Water Sector in Kenya: (A Case Study of EWASCO, Embu County)

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Abstract- This paper is part of a study that sought to establish factors that affect effectiveness of the procurement process in water companies. The particular factors identified were documentation, electronic procurement, staff training, and government policy and procurement ethics. The researchers adopted a descriptive research design. The analysis involved primary data obtained through questionnaires, interviews and secondary data which was obtained from relevant journals and books. The study was based on Embu Water and Sanitation Company, a leading water company whose core business is to provide clean drinking water in Embu County and its environs. It was evident from the findings that EWASCO procurement process was not – effective as indicated by 88 percent of the responses. It was also found that the firm had no staff training on policy of the process with majority of the staff involved in procurement just relying on seminar trainings to run the procurement unit. The paper proposes that an ethical based and effective procurement process can be built on the regulatory, corporate and functional legal framework for the benefit of all stakeholders in the water sector. The findings from the research confirmed the need to establish training programs as well as maintaining high organizational culture through strong codes of ethics. Overall there was the felt need to distribute and train personnel on the Public Procurement and Disposal Act policies and procedures. This study contributes to our knowledge on procurement process by presenting the key role of ethics on effective procurement process through personnel training on public procurement policies and procedures more so ethical regulations.

Keywords: *Procurement, Effectiveness, Supply Chain Management, E-Procurement, Embu County*

1. Introduction

The history of the water and sanitation sector in Kenya is characterized by institutional fragmentation that led to numerous inefficiencies and by subsequent attempts at reforms.

The Kenyan water sector underwent far-reaching reforms through the Water Act No. 8 of 2002. Previously service provision had been the responsibility of a single National Water Conservation and Pipeline Corporation as well as of a few local utilities established since 1996. After the passage of the act service provision was gradually decentralized to 117 Water Service Providers (WSPs). These are linked to 8 regional Water Services Boards (WSBs) in charge of asset management through Service Provision Agreements (SPAs). The Act also created a national regulatory board, Water Services Regulatory Board (WASREB) that carries out performance benchmarking and is in charge of approving SPAs and tariff adjustments while the Ministry of Water and Irrigation is charged with policies for water supply and the Ministry of Public Health and Sanitation in charge of policies for sanitation.

The quality of service of WSPs is closely monitored by the Water Services Regulatory Board with the aim of promoting comparative competition and performance improvements. Some of the most important indicators of service quality are water quality, continuity of water supply and wastewater treatment. However, water supply and sanitation in Kenya is characterized by low levels of access, in particular in urban slums and in rural areas, as well as poor service quality in the form of intermittent water supply. Only 9 out of 55 water service providers in Kenya provide continuous water supply. Seasonal and regional water scarcity exacerbates the difficulty to improve water supply.

1.1 Statement of the Problem

Public procurement means the process of acquiring goods, works and services by government procuring entities. The process includes purchasing, hiring, leasing or any other contractual means of engaging suppliers in provision of public services to the public. The public procurement goals include; satisfying the customer in terms of cost, quality and in timely manner, minimizing administrative operating costs, conducting business with integrity, fairness and openness and fulfilling public objectives. [13] notes that

effective application of procurement ethics is a major challenge facing many organizations around the globe. The level of application of procurement ethics has been used as a measure of the state of organization corporate image and corporate social responsibility practices hence supply chain management ethics is nowadays considered a core factor for business success. Low level of procurement regulations compliance by government ministries and lack of effective enforcement of regulations implementation by the government encourages cases of unethical procurement practices in Kenya.

The rise of supply chain management and procurement in Kenya is associated to a number of unethical business practices that violates codes of conduct. For instance when tendering processes is not executed in a transparent manner, then suppliers may have chances and vantages to solicit for consideration by advancing bribes and other forms of corruption. Transparency, fair treatment in bidding and awards of tenders, accountability and responsible purchasing and supply have a positive implication on procurement processes in any organization and could thus result into increased performance and delivery. This is not possible without employing ethical theories.

According to [13] compliance with the formal elements gives an indication of knowledge of the rules. Procurement managers will comply with the rules if they perceive them as clear. Lack of clarity increases the possibilities for procurement regulations noncompliance. Lack of familiarity with procurement rules results into poor compliance levels and this leads to inefficiency which negatively affects organisations performance. In the year 2005, before the enactment of the Public Procurement and Disposal act 2005 an independent procurement review was carried out jointly by Kenya and European Union. Several critical problems were identified with the 2001 regulations. Among the limitations were weak oversight institutions, lack of transparency, poor linkages between procurements and expenditures, delays and inefficiencies and poor record management. All this deals with ethical practices in the process.

The Public Procurement and Disposal Act 2005 address this strategic objective of public procurement through establishment of procedures for efficient public procurement and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities. According to Kenya gazette supplement No. 77(Acts No 3) [12]; one of the key objectives of the act is to maximize economy and efficiency. Since the launch of the procurement act, in January 2005 a lot of reorganization in the way procurement is done has been implemented. The intention has been to bring efficiency, effectiveness, economy and fairness through the procurement process.

Embu Water and Sanitation Company (EWASCO) being a Public entity, fully owned by the County of Embu is thus guided by all the government policies on procurement

procedures. The company developed a service charter in february 2010 with an aim of improving customers' satisfaction and reducing operating cost through an effective procurement process that ensures quality services at minimum cost possible. However the benefits of these are yet to be realized as the number of complaints from user departments on delays in deliveries, poor quality deliveries of materials, long processes of control in issuing Local Purchase Orders (LPO), numerous low purchases leading to unconsolidated invoices from vendors as indicated in the Internal Auditors report 2008/2009 financial year. Thus the study sought to establish the effect of ethics on effectiveness of procurement process since many enterprises around the world are unaware of how supply chain management and procurement ethics and compliance programs can help them avoid costly operation hitches and brand damage that results from supply chain scandals.

1.2 Objectives of the Study

The paper seeks to establish whether EWASCO procurement process is operated within the stipulated ethical frameworks (Statutory regulations, corporate and functional ethical frameworks) and what is the effect of ethics on the effectiveness of the procurement process.

2. Literature Review

2.1 Theoretical Review

[15] Identifies two major kinds of ethical theories; teleological and deontological ethical theories. Teleological theories are interested in consequences, while deontological theories are interested in duty.

2.1.1 Teleological Theories- Utilitarianism

According to utilitarianism, actions should be evaluated by their consequences. According to Jeremy Bentham, the founder of classical utilitarianism, the theory is based on understanding of human nature since human beings always try to avoid pains and seek pleasures. It is based on utility principle, "The greatest good for the greatest number of people". According to utilitarianism; "an action is right from an ethical point of view if and only if the sum total of utilities produced by that act is greater than the sum total of utilities produced by any other act the agent could have performed in its place" [16].

2.1.2 Deontological Theories- Kantian Ethics

Deontological theories of ethics are different from utilitarian theories of ethics. According to deontological theories; although the consequences of an act is good, some acts are always wrong. In deontological theories actions are judged as ethical or unethical based on duty or the intentions of an actor. Kant's ethical theory includes duty for the sake of duty without regard to human happiness. Kant describes duty as "the action which is objectively practical according to this law and duty [5]. Deontological approach is practiced by companies that follow legal and generally accepted moral norms. They tend to follow codes of ethics and try to avoid

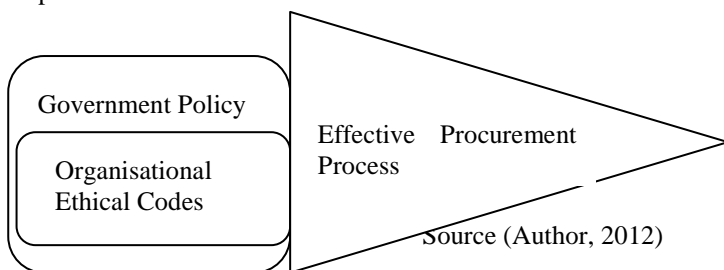
improper behaviors. The study emphasized on this category of ethics for EWASCO has a customer charter which constitutes value statements on the services it offers to its customers. The service charter is derived from statutory regulations.

2.1.3 Virtue Ethics and Care Ethics

Virtue ethics focuses on the nature of the acting person. This actor should base his actions on the right virtues. So the central theme in virtue ethics is shaping people into morally good and responsible creatures. Virtue ethics is rather similar to duty ethics. But whereas duty ethics is based on certain rules/norms, virtue ethics is based on certain virtues. Care ethics emphasizes that the development of morals is not caused by learning moral principles. Instead people should learn norms and values in specific contexts. By contacting other people, and by placing yourself in their shoes, you should learn what is good or bad at a particular time. The solution of moral problems must always be focused on maintaining the relationships between people. So the connectedness of people is the key.

2.2 Conceptual Framework

The conceptual framework shown below which guided this study was aimed at providing a concise understanding that the research revolved around the relation between the independent variables of documentation, staff training, E-procurement, government policy and procurement ethics against the dependent variable of the effective procurement process.



The study findings revealed a positive relationship between the independent variables and dependent variable

2.2.1 Government Policy

Government procurement policy establishes the principles for government's requisition of property and services. The public procurement and disposal act, 2005 stipulates the following principles under which public procurement should be based on; value for money, efficient, effective and ethical use of resources, accountability and transparency. Value for money is the most the core principle underpinning government. This means government officials need to be satisfied that the best possible outcome has been achieved taking into account all relevant cost benefits over the whole of the procurement cycle. This provides the achievement of value for money by providing practical information on

managing procurement processes that lead to agencies entering into purchasing agreement with suppliers.

A record of the procurement process should be created and maintained for a minimum period of six years. This facilitates scrutiny of factors and principles that informed certain decisions. The appropriate mix and level of documentation depends on the nature and risk profile of the procurement process being undertaken [15]. [14] reviewed the role of central government procurement in the light of its objectives for efficiency, modernization and competitiveness in the short and medium term. He found out that government departments were not communicating well with each other hence inconsistency and inefficiency in procurement activities.

2.2.2 Procurement Ethics

Ethics are the guidelines or rules of conduct by which we aim to live on. Organizations like individuals have ethical standards and frequently ethical codes. The ethical standards of an organization are judged by its actions and the actions of its employees, not by pious statements of intent put out in its name. The pressures which the marketplace exerts on purchasing departments and on individual buyers make it essential that top management, purchasing and supply managers, buyers and all other members of the procurement system recognize and understand both professional and ethical standards required in performance of their duties.

[7] emphasizes on procurement ethics being important in procurement for the following reasons: procurement staffs are the representatives of their organization in dealing with suppliers, sound ethical conduct in dealing with suppliers is essential to the creation of long-term relationships and the establishment of supplier good will, it is impossible to claim professional status for procurement without reference to a consideration of its ethical aspects.

According to [6] there is a belief that the individual has somehow lost the will to act ethically. Solutions tend to center on the need to indoctrinate students from the earliest ages through college, in the finer points of their civic and ethical responsibilities. In virtually every case, when a company improved quality ethics also improved. Ethics standards are a person's basis for differentiating right from wrong. Leaders and their key associates, play key role in shaping and defining the ethical standards that become absorbed into and shape the culture of the organization they lead. This emphasizes on the need for training on procurement ethics.

2.2.3 Effective Procurement Process

According to [7] apart from pre-purchase activities such as participation in the design and budget decisions, all purchasing falls into three main phases The notification phase; the notification of the needs to purchasing is usually in either as requisition from the stores or the stock control unit or a bill of materials issued by the drawing office. The

ordering phase; On receipt of the requisition, the buyer checks for accuracy, conformity to any standard specification and with purchase record to ensure whether they have been previously purchased from a satisfactory source and the prices were acceptable, a repeat order may be issued. However, in the public procurement, the relationship, with previous suppliers is not considered and the process.

Effectiveness is the ability of a person, function or organization to accomplish a given goal, purpose or mission while efficiency is the ability of person, function or an organization to maximize productivity with the least amount of effort, time money or other resources [7]. Effectiveness is considered as the means of doing the right thing whereas efficiency means doing things right. Consequently, effectiveness and efficiency are not always synonymous since it is possible to purchase effectively, for example, so that the right supplies of the right quality are available at the right time. Purchasing may not, however, be efficient since the supplies are not purchased at the right price. Some indicators of an effective procurement process include; acquisition of excellence comprising, *inter alia*, quality assurance systems and communication of quality standards, increased professionalism of procurement staff and the development of cross functional teams, the degree of internal customer satisfaction with procurement services and supplier management, including a reduced supplier base, supplier development and long term collaborative relationships.

The Public Procurement and disposal Act addresses effectiveness in the public procurement process through; structuring public procurement through Public Procurement Oversight Authority (PPOA) and other regulating bodies and Public Procuring Entities (PPEs). PPOA is charged with monitoring public procurement, implementation and operations of public procurement system, public procurement policy, registration of contractors in works, goods and services; administrative review of procurement proceedings. The Act, advocates for the PPEs to be staffed with procurement professionals, compliance with the act, use of open tendering and alternative methods, specifications of requirements, proper documentations, inspections and audits relating to contracts to ensure compliance and prequalification of suppliers. All this promote ethical practices along the procurement process

2.2.4 Measurement of Effectiveness of Procurement Process

According to [7] effectiveness of the procurement process is measured through achievement of key performance parameters notably: the timeliness, quality and quantity of the purchase. [7] identified some of the indicators of an effective procurement process as; acquisition of excellence comprising quality assurance systems and communication of quality standards, increased professionalism of procurement staff and the development of cross functional teams, the degree of internal customer satisfaction with procurement

services and supplier management, including a reduced supplier base, supplier development and long term collaborative relationships.

3 Research Methodology

3.1 Research Design

The study adopts a descriptive design which emphasizes on quality in the collection and analysis of data [8]. EWASCO was selected based on convenience, accessibility and willingness of the organization to take part in the study of this nature. The total population of the departments was 168 according to the human resource department.

3.2 Sampling Design

[7] argues that if well chosen, samples of at least 10% of a population can often give good reliability. This study, however, used 24% of the target population. A sample size of 40 comprising of representation of management team, Section Heads and Staff involved in procurement which was selected through purposive sampling. Purposive sampling provided the researchers the opportunity to sample only people involved directly with the procurement process

3.3 Data Collection Instruments

Questionnaire and interview schedules were used to collect data. The interview schedule contained guiding questions for the researchers to guide the data collection process. Primary data was collected using semi structured questionnaires with open ended and closed ended questions. It was then analyzed using content analysis and descriptive statistics.

3.4 Data Analysis

Both qualitative and quantitative methods were used to analyze data. Descriptive statistics such as tables, percentages and frequencies were used to represent the data. Qualitative data from open questions was presented in prose form. Content analysis also enabled the researchers to discover and describe the focus of individual, group, institutional, or social attention (Webber, 1990). It allowed inferences to be made which can be corroborated using other methods of data collection.

4 Results and Discussions

4.1 Response Rate

88% response rate was achieved in this study since out of the forty questionnaires we issued, thirty eight were returned, three were declared non responsive for they were not dully filled.

4.2 Background Information

It was important to find out the demographic information of the respondents and establish the general awareness of the

procurement process among the respondents. 57% of the respondents were male while 43 % of the respondents were female. From the sampled population, it is clear that the proportion of the male was higher than their female counterparts. The mean age of the respondents was 39 years.

79.9 % of the respondents had a college diploma or lower level of education indicating perhaps water companies do not place great emphasis on the qualification of their employees.

66% of the respondents had worked with EWASCO between 6 – 10 years. These findings on the period worked when considered with the findings that 77 percent of the respondents had Diploma level education or less implies a greater dependence by Water companies on experience rather than formal qualification and training.

4.3 Familiarity with procurement Process

86 % of the respondents agreed to be familiar with the term procurement process while only 14 % seemed not to be familiar with the term. This indicates that most of the respondents chosen were directly involved in the procurement process.

4.4 Respondents' Rating of EWASCO Procurement Process

80 % of the respondents rated the company's procurement process as being not effective, 11 percent rated it as effective while 3 percent rated it as being very effective. Six percent of the respondents were undecided. These findings indicate there were factors that were affecting the effectiveness of the procurement process and hence leading to it being ineffective as noted by the 80 percent of the respondents.

4.5 Effects of Government Policy on Procurement Process

The researchers intended to establish whether EWASCO had implemented the government policy on procurement (Public Procurement and Disposal Act, 2005, the regulations, 2006 and the procurement manual) and if so what were the effects on its procurement process. 51.4 % of the respondents strongly agreed with 34.3 % disagreed with implementation of the procurement policy. These findings can be attributed to the failure by the company to have a training policy on procurement process. 57.2% of the respondents disagreed or strongly disagreed when asked whether the policies makes the procurement process less costly. Majority of the respondents felt that the procedures stipulated in the Act and Regulations are time consuming and prone to misuse and this was strongly supported by 57.2 percent of the respondents disagreeing that the policies leads to less time consuming of the process.

4.6 Effects of Procurement Ethics on Procurement Process

Information concerning procurement ethics gave a blue print on how the procurement process was being conducted. The responses were based on the objective of EWASCO had a procurement code of ethics and its effect on the process timeliness, quality, cost of purchase and suggestions on improving it.

99 percent of the respondents pointed out that the firm had no code of procurement ethics. This findings are supported by the results that the firm had no training policy on the procurement process and poor implementation of the government policy as discussed earlier.

Despite EWASCO having no procurement code of ethics, 85.7 percent of the respondents strongly believed a code of ethics would lead to quality purchase and less time of the procurement process. When asked whether the procurement code of ethics making the process less costly 97.1 percent strongly agreed. Majority of the respondents appreciated the need for a procurement code of ethics as a remedy to malpractices in the process.

5. Conclusions

The water sector has become highly competitive, and the industry therefore focuses a lot on principles of efficiency of procurement process. But this research shows that for long term efficiency and effectiveness it is recommended that competency be built on the ethical code of conduct at water companies. The research brings us to the conclusion that the more ethical the practices the companies are, the better the effectiveness of the procurement process and hence the more customers will be satisfied. Furthermore [1] asserts that companies that adhere to a strong ethics policy are likely to enjoy a long-term competitive advantage.

Despite the firm implementing the government policy on procurement, its full adoption is a challenge since the firm lacks the capacity to do so. Lack of a procurement ethics training policy is enough proof since all the ethical practices are just mere guess work. The firm does not have a procurement code of ethics despite the respondents suggesting that a procurement code of ethics would assist in minimizing procurement malpractice among the staff involved in procurement. There is to set a procurement code of ethics and train or circulate among the staff so as nurture a culture of integrity.

The researchers recommend that there is need for establishment a procurement training policy and code of ethics. This will provide the staff involved in the process with the much needed knowledge and guidance. The state of procurement professional in water companies in Kenya need to be established especially now when the water sector is facing accusations of procurement malpractices and procurement inefficiencies at high levels.

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